United Nations A/55/426-S/2000/913

General Assembly
Security Council

Distr.: General
27 September 2000

Original: English

General Assembly
Fifty-fifth session
Agenda item 114 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Security Council
Fifty-fifth year

Letter dated 27 September 2000 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to forward herewith a memorandum of the Commission of the Government of the Federal Republic of Yugoslavia on Humanitarian Issues and Missing Persons on the systematic violations of international and bilateral obligations of the Republic of Croatia (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 114 (c), and of the Security Council.

(*Signed*) Vladislav **Jovanovic**
Chargé d'affaires a.i.

00-66130 (E) 101000

Annex to the letter dated 27 September 2000 from the Chargé d'affaires of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

Memorandum of the Commission of the Federal Government of the Federal Republic of Yugoslavia on Humanitarian Issues and Missing Persons on the systematic violations of international and bilateral obligations of the Republic of Croatia

Several hundred thousand Serbs from Croatia went missing, were killed or expelled in the military operations conducted for the purpose of seceding Croatia from the former Yugoslavia and during their subsequent massive ethnic cleansing. The fate of most of these persons remains unknown or, at best, uncertain. Nobody knows, for instance, what the ultimate fate of over 330,000 Serbs who fled terror in Croatia and found shelter in the FR Yugoslavia will be and what happened to 3,277 missing Serbs from Croatia. The Croatian authorities have always had problems with honouring their obligations vis-à-vis the important humanitarian issue of addressing the question of Serbs who disappeared in the civil war that broke out in Croatia in the wake of the dismemberment of the former Yugoslavia. Concerned to maintain the image of "sacrificial lamb" that they painted themselves and that was only too readily accepted in some influential international circles, they have been very reluctant to lift the stone on what had happened underneath, especially in the operations of the Croatian military and police called "Flash" and "Storm", carried out on 2 May and 4 August 1995 respectively, against the Republic of Serbian Krajina, established on the Serbian ethnic territories.

The failure of the Croatian authorities to begin exhumations and identification of the bodies of the Serbian victims of the civil war is the subject of great anguish and frustration of the families concerned. United Nations member-States, its bodies and agencies and relevant Special Rapporteurs are called upon to bring pressure to bear on the Republic of Croatia to honour its obligations under the Agreement on Cooperation in Tracing Missing Persons, signed by the Ministers for Foreign Affairs of the FR of Yugoslavia and the Republic of Croatia at Dayton, Ohio, on 17 November 1995, the Protocol on Cooperation between the Commission of the Federal Government of the FR of Yugoslavia on Humanitarian Issues and Missing Persons and the Commission on Detained and Missing Persons of the Government of the Republic of Croatia, signed in Zagreb on 17 April 1996, and the Geneva Conventions Relative to the Protection of the Victims of War.

The Croatian authorities have been guided by political expediency in the approach to their obligations to address the fate of the missing persons from the Yugoslav search list. The new "democratic" government, in office since early this year, has also failed to take concrete steps to dissociate itself from the policy and practice of the previous Croatian government. Excessive optimism in certain international circles about the political situation in Croatia runs against the grain of the experience of parents and families of missing persons in the FR of Yugoslavia, especially of the Serbs

expelled from Croatia, and is a cause of concern that the attitude of the international community may provide a convenient opportunity and a handy excuse to the Croatian authorities to continue to drag their feet and delay addressing the fate of their kin.

In March of 1999, the Commission of the Republic of Croatia on Detained and Missing Persons broke off unilaterally its cooperation with the Commission of the Federal Government of the FR of Yugoslavia on Humanitarian Issues and Missing Persons, provided for by the Agreement on Cooperation in Tracing Missing Persons between the FR of Yugoslavia and the Republic of Croatia and the Protocol on Cooperation between the Commissions of the governments of the two countries. The said documents envisage continued cooperation by way of holding alternate meetings of the Commissions in Belgrade and Zagreb until the final solution of all cases from the search lists of missing persons of both parties has been reached.

Conversely, the FR of Yugoslavia has honoured all its obligations towards the Republic of Croatia concerning the missing persons in accordance with the Geneva Conventions, international humanitarian law and the afore-mentioned inter-State documents. It released all Croats held prisoner as early as 1992, including persons convicted for war crimes. In 1994, it also released the members of a Croatian sabotage-terrorist group arrested in the territory of the FR of Yugoslavia. The FR of Yugoslavia delivered all protocols and personal effects of persons killed in Vukovar in 1991, handed over human remains and provided answers to other individual searches made by the Republic of Croatia. On the basis of the protocols, the Croatian side carried out the exhumation of 938 bodies at the cemetery in Vukovar in 1998, 588 of which were identified. Regrettably, although the figure includes several hundred Serbs, the Serbian families were not allowed to attend the exhumations and identification. Also, contrary to the agreement, the Commission of the Republic of Croatia on Detained and Missing Persons did not invite the Yugoslav side to attend the exhumations in Vukovar nor has it informed it of the results of the identification.

Notwithstanding the official assurances made by the highest-ranking Croatian officials on several occasions that Croatia would address cases from the Yugoslav search list as a matter of priority, the Croatian side has failed to:

- carry out the agreement reached by the Ministers for Foreign Affairs of the FR of Yugoslavia and the Republic of Croatia on the exchange of prisoners on the basis of the principle "All for All". Because of the failure, 76 Serbs continue to be held captive in prisons in Croatia (most of them were captured in the operations of ethnic cleansing "Flash" and "Storm", see Chapter I);

- solve 3,277 cases of missing persons from the Yugoslav search list, 576 of whom are citizens of the FR of Yugoslavia (see Chapter II, para. 1) and 2,701 Serbs from Croatia (see Chapter II, para. 2);

- provide answers and carry out its obligations regarding identified and unidentified killed persons in the afore-mentioned operations of ethnic cleansing "Flash" and "Storm" (see. Chapter II, para. 3); and

- honour the Geneva Conventions and Additional Protocols with respect to Serbian cemeteries and the exhumation and identification of Serbian bodies (only graves of

Croats are exhumed, Serbian casualties are presented as Croatian, attendance of exhumations is made difficult or even expressly denied to Serbian families and representatives of the Serbian people in Croatia, while Serbian cemeteries are deliberately neglected).

After a unilateral interruption of bilateral contacts on the question of missing Serbs by the Croatian side 16 months ago and many initiatives by the Yugoslav side to induce Croatia to take seriously its international and bilateral obligations and carry them out in good faith, a brief meeting of the two Commissions was held in July 2000. Unfortunately, it confirmed the lack of readiness also of the new Croatian government to carry out the obligations to which the two sides committed themselves jointly. The international community is therefore called upon to address a serious warning to Croatia, as a member-State of the United Nations, the International Federation of Red Cross and Red Crescent Societies and a party to the Geneva Conventions Relative to the Protection of the Victims of War. This problem should be brought to the attention of the Croatian side also by the United Nations High Commissioner for Human Rights, United Nations High Commissioner for Refugees and the Special Rapporteur of the United Nations Commission on Human Rights for the Status of Human Rights in Bosnia and Herzegovina, Croatia and the FR of Yugoslavia, as well as by European and other organizations such as the Organization for Security and Cooperation in Europe, of which the Republic of Croatia is a full-fledged or prospective member.

I

PRISONERS

The 76 Serbs still held in Croatian prisons were taken prisoner or arrested during and in the wake of the operations of ethnic cleansing "Flash" and "Storm" carried out by the Croatian military and police against the Republic of Serbian Krajina on 2 May and 4 August 1995. Several hundred thousand Serbs were expelled and 230,000 of them found refuge in the FR of Yugoslavia. As a result, the number of Serbs who were expelled from Croatia and found refuge in the FR of Yugoslavia has increased to over 330.000. It should be noted that another substantial number of Serbs fled terror and persecution in Croatia and found refuge in other countries.

In the afore-mentioned operations of ethnic cleansing, over 2,100 Serbs were killed or went missing, more than 70 per cent of them civilians. Over 2,950 persons were captured and the above-mentioned 76 are still in Croatian prisons. Although these persons were captured during the civil war, refusing to release them under the Agreement and the Protocol on Cooperation in Tracing Missing Persons, signed with the FR of Yugoslavia, and under its own Amnesty Law, Croatia has changed the qualification of their offence from participation in the so-called armed rebellion to the criminal act of war crime. All of them are convinced that they are innocent because their trials were rigged, there were no witnesses, evidence was provided on the basis of statements given by false witnesses and outside regular court procedures. Similarly, the Croatian side failed to abide even by its own laws or to honour legal time limits (It took several years for sentences to be passed and courts of second instance did not honour appeal deadlines). Surprisingly, instead of releasing these persons or making it possible for them to receive a fair trial, the new Croatian government has recently stepped up confirmation of sentences by which the Serbs were sentenced to long

imprisonment. This action of the Croatian government is aimed at preventing these persons from being included in the exchange procedure and is designed to cover up drastic violations of Croatia's own laws by the Croatian authorities.

This has further aggravated the situation of the imprisoned Serbs, who went on a hunger strike on a number of occasions and demanded to be taken over by the International Criminal Tribunal for the Former Yugoslavia, convinced that, despite its widely-known anti-Serbian bias, they can get a fairer trial in The Hague than in Croatia. However, they have been turned down by the Tribunal for lack of evidence against them. In Croatia, however, they were sentenced to long-term imprisonment, ranging from 10 to 20 years.

Since the Protocol on Cooperation in Tracing Missing Persons does not provide for the release of persons tried for the criminal act of war crime, the Ministers for Foreign Affairs of the FR of Yugoslavia and the Republic of Croatia, Zivadin Jovanovic and Mate Granic, reached, in the spirit of the Agreement on the normalization of relations between two countries, an agreement on 18 August 1998 on the exchange of all sentenced Serbs, held in Croatian prisons, for persons of Croatian nationality, sentenced in the FR of Yugoslavia for various criminal acts on the basis of the principle "All for All". The agreement has not been honoured because the Croatian side reneged on it unilaterally after all disputed issues of its implementation had already been resolved.

From the very beginning, the Yugoslav side has stressed its readiness to carry out the agreement reached between the Foreign Ministers on the exchange of prisoners and demanded that it be implemented immediately and unconditionally.

Over 2,000 Serbs are being investigated or have been sentenced *in absentia* in Croatia for the criminal act of war crimes and the Croatian authorities have never made public the list of their names despite a public commitment to do so. This has a negative effect on the process of return of expelled Serbs to Croatia since many of them, on visits to their homes and relatives or on tours to see for themselves what practical possibilities exist for permanent return, have been arrested while crossing into Croatia. The Croatian authorities have thus sent a clear message to expelled Serbs that they are not wanted back to Croatia.

II.

MISSING PERSONS

Notwithstanding its public pronouncements, often made at the level of highest-ranking officials, to the effect that it will solve Yugoslav requests as a matter of priority, the Croatian side has not solved 3,277 cases of missing persons from the Yugoslav search list. It includes:

1. 576 cases of missing persons from the FR of Yugoslavia, of whom the Croatian side was notified through the Tracing Service of the Yugoslav Red Cross, in particular 54 persons, signified as priorities, for whom evidence was available that they had been

alive and in Croatian prisons or otherwise in the custody of the Croatian authorities. These include:

- 5 airmen of the former Yugoslav People's Army (JNA). The information about them was forwarded to the Croatian side on several occasions and agreements were made with the Commission of the Government of the Republic of Croatia for Detained and Missing Persons which should have led to the clarification of their fate. However, nothing has come out of those agreements as the Croatian side failed to honour its obligations;

- 7 soldiers of the former JNA captured on 2 May 1992 in the village of Donje Kolibe near Bosanski Brod. On a number of occasions, the Croatian side was provided evidence of their capture and statements of witnesses who had spent several days with them in prisons in Croatia and were subsequently released through prisoner exchange; and

- 14 reservists of the former JNA, the "Niksic" and "Savnik" groups, arrested in Mostar and the vicinity in April 1992. The Yugoslav side provided evidence (statements of witnesses) that these persons had been in Croatian prisons and that some of them had been arrested in downtown Mostar (at the post office, making phone calls to relatives), not on a tour of duty, let alone in a combat operation. The Croatian side informed the Yugoslav Commission in writing that it had in its custody the remains of 11 persons from the "Niksic" and "Savnik" groups and handed over the personal effects of one person. However, it continues to refuse to hand over the remains and makes it contingent on ever more unrealistic demands, contrary to one of the basic principles of humanitarian law that human remains of the killed must be handed over without any conditions and that they cannot be the subject of exchange;

There is growing evidence in the form of testimonies of survivors that these persons were tortured in the Croatian prison Lora near Split. Wary of the resurgence of the evidence, the Croatian authorities are making every effort to suppress it, refusing to hand over the remains of the soldiers and civilians who succumbed to torture in this detention centre. For the same reason they refuse to hand over the remains of the members of the former JNA (most of them conscripts killed in attacks on barracks and other facilities of the former, at the time still common, JNA in Bjelovar, Karlovac, Zadar, Osijek and Zagreb in the autumn of 1991), even though the Croatian side was provided precise data on the date and place of their death. In wanton disregard for international humanitarian law, the remains of some of them were burnt, allegedly for health-related and hygienic reasons.

2. 2,701 cases of missing Serbs from Croatia and the Republic of Serbian Krajina, including those killed in the attack by the Croatian military and police on the Republic of Serbian Krajina in the operations of the ethnic cleansing of Serbs "Flash" and "Storm". The Croatian Commission undertook to solve these cases when it signed the Protocol on Cooperation between the two Government Commissions. Under the Protocol, the Croatian side is obliged to forward all identification protocols, send personal effects, carry out exhumations and hand over the remains of the victims c sidering that most of the families of missing Serbs from

Croatia now live in the FR of Yugoslavia and are apprehensive of establishing contacts with the Croatian Commission.

For almost ten long years, the Croatian authorities have refused to provide answers to parents and relatives about the fate of many taken for so-called informative talks from which they never returned. What has happened to them is not known, although the names of those who brought them in for questioning are known. Instances of these cases abound; for the purpose of illustration, given are the following few:

- Before the outbreak of armed conflicts in Croatia in the summer of 1991, at least 40 prominent Serbs from Vukovar and the vicinity were brought in for informative talks with the Croatian authorities and have not been heard of ever since. On 2 August 1991, 9 Serbian civilians from Sarvas, Municipality of Osijek, were forcibly taken away and their families have not heard of them since. In September of that same year began the harassment of the remaining villagers of Paulin Dvor, which ended in the massacre of 19 civilians on the night of 11 December 1991. They were tortured and killed in a house, subsequently mined and blown up, and their bodies were taken away in an unknown direction. The remains of these people have not been released to their families yet;

- Massive deportations of civilians were carried out in Western Slavonia (Maciska Sagovina, Pakracka poljana and Marino Selo) in 1991 and 1992. They were followed by tortures and liquidations in camps established for the purpose. About 300 Serbian civilians went missing in the camps at Pakracka Poljana and Marino Selo at that time. Massive liquidations of Serbs took place also in other areas of Croatia. One glaring example was the disappearance, within the mere 2 days of 16 and 17 October 1991, of 157 Serbs in the area of Gospic. 26 charred bodies have been found, while others are still listed as missing;

- In the attack of the Croatian military against the positions of the Serbian territorial defence at the Miljevacki Plateau in June 1992, carried out despite the presence of UNPROFOR, 40 Serbian territorial defence members were killed and 17 were captured. The families were not allowed to take over the remains of the killed and the captured Serbs were ordered, under the threat of death, to throw the bodies of their fellow-Serbs into a karst pit;

- In January 1993, at the time when the implementation of the UNSCR 762 (1992) of 26 June 1992 and what is known as the Vance Plan were well underway, the Croatian military attacked the Republic of Serbian Krajina again. The Serbian villages of Islam Grcki, Kasic and Smokovic bore the brunt of the attack (and of Croatian rage), whereas the Serbs from the ethnically heterogeneous villages of Murvica, Crno, Zemunik Gorni, Poljica and Islam Latinski were expelled or killed. 326 Serbian soldiers and civilians were killed, while 165 civilians died in makeshift camps; and

- In September 1993, the Croatian military carried out a surprise attack on the Serbian villages at the foothills of Mt. Velebit, collectively known as the

Medak Pocket, which had been under United Nations protection. 88 Serbs went missing or were killed in the operation, 46 soldiers and 42 civilians. The Croatian side handed over 52 bodies, most of them disfigured or charred which leads to the conclusion that the captured and the wounded had been massacred and murdered. It was only in April 2000 that Hague Tribunal investigators exhumed the first Serbian mass grave at the site of Obradovic Varos in Gospic and found the remains of 11 persons in a cesspool. The victims have not been identified yet, their remains are in Zagreb, while the families of most of them now live in the FR of Yugoslavia. The exhumation was done only in the presence of Croatian security forces as the investigators banned the families and Yugoslav forensic experts and even representatives of the International Committee of the Red Cross in wanton disregard for the principles of international humanitarian law and the customary investigating procedure.

2. Over 230 000 Serbs were expelled from the Republic of Serbian Krajina in the operations of ethnic cleansing "Flash" and "Storm", carried out by the Croatian military and police in May and August 1995. The tally of these operations provides a distressing reading:

- Within mere 36 hours, 284 Serbs, including 57 women and 8 children, went missing or were killed in the attack of the Croatian military and police against the Serbian population of Western Slavonia in the operation of ethnic cleansing called "Flash" that started on 2 May 1995. About 1,500 members of the military of the Republic of Serbian Krajina were taken prisoner, while civilians who had been unable to flee were placed in detention camps as their homes were looted, plundered and destroyed. According to the records of relevant international organizations, only about 800 Serbs, out of some 15,000 that had lived in the area prior to the attack, remained there in October 1995; and

- In a joint action with the forces of the Croatian Defence Council and the Fifth Corps of the Army of Bosnia and Herzegovina, over 200,000 members of the Croatian military and police attacked the remaining part of the Republic of Serbian Krajina (Northern Dalmatia, Lika, Kordun and Banija) on 4 August 1995, with the approval and support of NATO. During and after the aggression 1,791 Serbs were killed or went missing, including 449 women and 11 children. About 3,200 elderly and infirm persons were taken to detention camps. Krajina was devastated, plundered and set ablaze. In October 1995, United Nations observers registered about 22,000 demolished buildings in Sector South alone. Several hundred thousand Serbs were expelled, including 230,000 who found shelter in the FR of Yugoslavia.

Considering that the vast majority of the families of Serbs who went missing in the operations of ethnic cleansing "Flash" and "Storm" now live in Yugoslavia, the Yugoslav side called for settling the issue of tracing the persons gone missing in those operations, i.e. for establishing the exact number and a single list of missing persons, beginning exhumations and identification, updating protocols for unidentified Serbs killed in the operations and for handing over personal effects and corresponding protocols to which the Croatian side committed itself under the Cooperation Protocol.

248 Serbs were killed or went missing during and after the operation of ethnic cleansing "Flash" and 1,791 during and after operation "Storm". However, the Croatian side continues to cover up the number of Serbs killed in these operations, which is revealed by the following:

According to official lists provided by the Croatian Commission, 788 persons of Serbian nationality were killed during the aggression against the Serbian population in the Republic of Serbian Krajina in operation "Storm", of whom 163 were identified and 625 were not. 168 persons of Serbian nationality were killed in operation "Flash", 79 of them were identified and 89 were not. This brings the total number of Serbs killed to 956 of whom 242 were identified and 714 were not.

However, in the report submitted by the Government of the Republic of Croatia to the Security Council in February 1996 it is said that 911 Serbs were killed in operation "Storm". Considering that the number of killed Serbs on the list provided by the Croatian Commission is 788, the Croatian side is under obligation to submit 123 additional protocols for Serbs killed in this operation alone.

So far, the Yugoslav side has received 669 protocols from the Croatian side for unidentified Serbs killed in operations "Flash" and "Storm". However, the Yugoslav Commission has drawn the attention of the Croatian side that it is under obligation to hand over additional protocols for unidentified Serbs killed in these operations since, out of the total number of 669 protocols already handed over, 57 relate to other burial sites that were not included in the lists of the Croatian Commission, while 101 protocols for sites included in the lists are missing. This by itself provides telling evidence that the Croatian side possesses a larger number of protocols from the one it has conceded to be in possession of.

The Yugoslav Commission has also requested the Croatian side to hand over the protocols for 242 persons identified by the Croatian authorities whose families live in the FR of Yugoslavia as no family will accept identification on the basis of lists containing incomplete data. This all the more so as 9 persons from the lists have been ascertained to be alive, which calls into question the validity of the entire identification procedure.

The data, it is pointed out, are based on the official information provided by the competent Croatian authorities. However, taking into account the data in possession of the Commission on Humanitarian Issues and Missing Persons of the Federal Government of the FR of Yugoslavia, as well as those compiled by international and other organizations and the families of Serbs killed in operations "Flash" and "Storm", the number of protocols that the Croatian Commission is expected to hand over is significantly larger.

At the recent meeting in Zagreb the Croatian Commission sought to deny the right of the Yugoslav side to be involved in the solution of the question of Serbs gone missing in the operations of ethnic cleansing "Flash" and "Storm" conducted by the Croatian military and police during and after their attack on the Republic of Serbian Krajina. It contended that the missing Serbs were Croatian nationals and that it paid

equal attention to the tracing of all missing persons in the territory of Croatia regardless to their ethnic, religious or other belonging.

From its part, the Commission of the Federal Government of the FR of Yugoslavia argued that, under the Protocol on Cooperation in Tracing Missing Persons, the Croatian side had undertaken to solve, with the Yugoslav Commission, also the question of Serbs gone missing in the operations of ethnic cleansing "Flash" and "Storm", since a large number of families of these persons live in the territory of the FR of Yugoslavia, as well as that they are not on the official search list of the Croatian Commission (out of 2,701 Serbs gone missing in Croatia registered by the Yugoslav Commission, only 25 missing Serbs are on the Croatian official search list that includes 1,620 persons). The Tracing Service of the Croatian Red Cross has registered over 1,100 missing persons in Croatia (the largest number of them are Serbs gone missing in the said operations) who are not on the Croatian official search list of missing persons either.

This is a clear indication of the intention of the Croatian Commission to hide the truth about Serbian casualties in Croatia and the war crimes committed against Serbs, particularly those in the operations of ethnic cleansing "Flash" and "Storm". Although committed to cooperation with the Hague Tribunal under the constitutional law of the Republic of Croatia, the Croatian side has not yet submitted to the Tribunal a complete documentation on these operations, apprehensive of the consequences, international and internal, of the unveiling of the heinous crimes committed against the Serbian people in Croatia the second time this century. Similarly, the Hague Tribunal has not only failed to condemn Croatia's behaviour despite pronouncements that it will do so, but seems to be indulgent of it. As a result, only the fate of missing Croats is addressed in Croatia, but not that of Serbs.

Pressed by the Yugoslav side and relevant international organizations which attended the meeting of the Commissions in Zagreb, in the end, the Croatian Commission accepted to continue to cooperate with the Yugoslav Commission in keeping with the provisions of the Cooperation Protocol. For that purpose, the Commissions agreed to draw up, in the presence of the International Red Cross and the International Commission on Missing Persons, a single list of missing persons in Croatia for the 1991-1995 period.

Nevertheless, the Yugoslav side has very few reasons to be satisfied with the attitude of the Croatian authorities towards the obligations they have assumed. This is evinced also by the negligence of the Croatian side in honouring its obligation to maintain, restore and properly mark registered graves in which the Serbs were buried (according to available data more than 1,300 of them) and the international community would do well to use its influence to remind Croatia of that obligation as well. For, allowing the graves to fall into disrepair, their crosses to be broken and to fall down and the lettering to fade is not only a sign of a lack of piety and respect for the deceased, but can render the identification of the dead difficult or even impossible.

The international community is also called upon to bring pressure to bear on the Croatian authorities to start the exhumation and identification of the bodies of the Serbian victims in Croatia and to accord them the same importance and urgency that it has accorded to the exhumation and identification of the Croatian victims. This all the

more so as the Croatian side has failed to abide by bilateral agreements, and international pressure on Croatia to honour relevant documents in the field, such as the Geneva Conventions and international humanitarian law, as well as the agreements with the Federal Republic of Yugoslavia, remains the last hope of the families of Serbs killed or gone missing in the civil war in Croatia.

August, 2000